

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Hollingsworth Analyst: Norm Catelli Bill Number: AB 1408
Related Bills: See Legislative History Telephone: 845-5117 Amended Date: August 21, 2002
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Net Operating Loss (NOL) Deduction Carryover/Pierce's Disease/FTB Develop Management Agreement with Department of Food & Agriculture

SUMMARY

This bill would require the Franchise Tax Board (FTB) to enter into an interagency agreement with the California Department of Food and Agriculture (CDFA) securing certain information related to net operating loss (NOL) deductions for Pierce's disease claimed by noncorporate farmers.

This analysis addresses only those provisions of this bill affecting FTB.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

According to the author's office, the purpose of the bill is to clarify existing law relating to administration of NOL deductions for Pierce's disease.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2003.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

An NOL is defined as the excess of allowable deductions (as specifically modified) over gross income. **Federal law** provides, in general, that an NOL can be carried back two years and forward 20 years. Special rules are provided for the carryback of NOLs arising from specified liability losses, excess interest losses, casualty or theft losses, disaster losses of a small business, and farming losses.

Existing state law conforms to the federal computation of an NOL. However, California does not allow NOL carrybacks. Depending on the type of taxpayer or amount of a taxpayer's income, the amount of the NOL that is eligible to be carried forward and the number of years it can be carried forward will vary.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ <u>X</u> PENDING

Department Director

Date

Gerald H. Goldberg

11/13/02

Under existing state and federal law, farm losses may be deducted as an ordinary loss, limited to the taxpayer's farm income, in the taxable year sustained. Deductible losses in excess of income generate an NOL deduction.

For taxable years beginning on or after January 1, 2001, and before January 1, 2003, farmers are allowed an NOL deduction for losses sustained due to Pierce's disease and its vectors in California. To claim these NOLs the CDFA must determine that a particular pest infestation (Pierce's disease) has caused the NOL.

THIS BILL

A provision of this bill would clarify that, for taxpayers subject to the Personal Income Tax Law, the CDFA is required to confirm to FTB that Pierce's disease and its vectors have affected a farming business during the year for which the noncorporate taxpayer seeks an NOL deduction. The provision requires FTB and CDFA to develop a management agreement establishing procedures to accomplish this result.

IMPLEMENTATION CONSIDERATIONS

In order to avoid taxpayer disclosure issues, CDFA would need to provide FTB with specific information for verification purposes. For example, FTB would need the identity of a taxpayer seeking confirmation, the taxpayer's tax identification number, location of the affected property, and year affected. These details would need to be worked out in the management agreement between the two departments.

Also, this provision does not include corporate taxpayers. However, it may be desirable to do so since many farms are incorporated. Not including corporate taxpayers appears to be an oversight that should be resolved in the future.

Otherwise, implementing this bill would not significantly impact the department's programs and operations.

LEGISLATIVE HISTORY

AB 238 (Hollingsworth, Stats. 2001, Ch. 623) added the NOL-Pierce's Disease to the Revenue and Taxation Code.

AB 2065 (Oropeza, Stats. 2002, Ch. 488) suspends NOLs for the 2002 and 2003 tax years, and extends the carryover period to compensate for the suspension.

OTHER STATES' INFORMATION

This bill is specific to administrative procedures and a comparison to other states is not meaningful.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This clarifying amendment would not impact state tax revenues.

LEGISLATIVE STAFF CONTACT

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